

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

KHUSHI PARTNERSHIP	)	
	)	
Plaintiff,	)	Civil Action No. 3:22-cv-00265
	)	
v.	)	
	)	
BERKSHIRE HATHAWAY HOMESTATE, INSURANCE COMPANY	)	
	)	
Defendant.	)	JURY DEMAND

**DEFENDANT’S MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION TO  
DISMISS**

NOW COMES Defendant, Berkshire Hathaway Homestate Insurance Company (“BHHIC”), by and through its undersigned counsel, and for its Memorandum of Law in Support of its Motion to dismiss, states as follows:

**BACKGROUND**

On September 20, 2022, Plaintiff Khushi Partnership’s (“Khushi”) initial counsel was granted permission to withdraw from this case. (Dkt. No. 37). On November 28, 2022, the Court clarified that “because the present plaintiff is a partnership, it must be represented by counsel.” (Dkt. No. 42). On April 11, 2023, Khushi’s second counsel filed his Motion to Withdraw, seeking permission to withdraw due to a conflict of interest in the case. (Dkt. No. 45). On April 17, 2023, the Court granted the Motion to Withdraw, and ordered that Khushi had “until May 19, 2023 within which to have new counsel enter an appearance of record on its behalf.” (Dkt. No. 46). As of the date of this filing, no new counsel has made an appearance on behalf of Khushi.

## MOTION

“[T]he core component of standing is an essential and unchanging part of the case-or-controversy requirement of Article III.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). The elements of standing are “an indispensable part of the plaintiff’s case....” *Id.* at 561. “Because standing is an essential component of federal subject-matter jurisdiction, the lack of standing can be raised at any time by a party or by the court.” *McLemore v. Gumicio*, 2020 WL 7129023, at \*4 (M.D. Tenn. Dec. 4, 2020); *see also Bench Billboard Co. v. City of Cincinnati*, 675 F.3d 974, 983 (6th Cir. 2012) (“The issue of standing, however, may be raised *sua sponte*”).

As previously considered by the Court, both federal and Tennessee law hold that Khushi cannot proceed *pro se* in this matter because it is a partnership. *See, e.g., Managing Members of Edgewood MHP Partners, LLC v. Non-Managing Members of Edgewood MHP Partners, LLC*, 2018 WL 3966990, at \*2 (W.D. Tenn. June 26, 2019); *Invs. Grp., I Ltd. v. Knoxville’s Cmty. Dev. Corp.*, 2001 WL 839837, at \*2 (Tenn. Ct. App. July 25, 2001). Further, “[t]he Sixth Circuit considers this issue one of lack of standing.” *Managing Members*, 2018 WL 3966990 at \*2 (citing to *Oliver v. Pogats*, 1992 WL 76951, at \*1 (6th Cir. Apr. 12, 1992)). In *Managing Members*, the court permitted two individuals to proceed *pro se* “but only on their own claims,” finding that “they do not have standing to represent” a corporate party. *Id.* As such, the court recommended dismissal of any claims brought by the individuals on behalf of the corporate party. *Id.*

Like in *Managing Members*, Khushi is a corporate entity, and therefore, claims on its behalf “must be brought through a licensed attorney....” *Id.* The Court ordered Khushi to have new counsel to appear on its behalf on or before May 19, 2023. (Dkt. No. 46). Because Khushi has failed to comply with this Court’s Order, and because Khushi’s failure to have counsel appear is

an issue of standing, BHHIC respectfully requests the Court dismiss Khushi's claims with prejudice.

WHEREFORE, Defendant Berkshire Hathaway Homestate Insurance Company prays for the entry of an order dismissing Khushi Partnership's claims with prejudice.

Dated: June 1, 2023

Respectfully submitted,

s/ Lorne G. Hiller

Lorne G. Hiller (TN Bar No. 039171)

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*Counsel for Defendant*

*Berkshire Hathaway Homestate Insurance Company*

**CERTIFICATE OF SERVICE**

I hereby certify that, on June 1, 2023, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using this court's ECF system and mailed by USPS certified mail which will send notification of such filing to the following:

Khushi Partnership  
C/O Jack Patel  
5704 Portsmouth Place  
Brentwood, TN 37027  
jacksubway@gmail.com

*Plaintiff*

/s/ Lorne G. Hiller  
Lorne G. Hiller